

Remarks

Claims 2, 3 and 12 are canceled.

Claims 1, 4, 9, 16 and 21 are amended.

Claims 1, 4-11 and 13-21 are now pending and are under consideration.

Claims 1 and 21 are amended to include the limitations of original claims 3 and 12. Claims 1 and 21 are also amended to delete "an effective amount", "an effective stabilizing amount" and "an effective synergistic stabilizing amount".

Claims 1, 4 and 21 are amended to remove instances of "the" that do not have antecedent basis.

Claim 16 is amended to delete "an effective synergistic stabilizing amount".

Claim 9 is amended to remove an inadvertent period.

No new matter is added.

Claims 1-21 are rejected under 35 USC 112, second paragraph, as being indefinite for reasons of record.

The claims are amended as discussed above.

In view of the present amendments, Applicants submit that the 35 USC 112, second paragraph rejections are addressed and are overcome.

Claims 1-15 and 17-20 are rejected under 35 USC 102(b) as being anticipated by Fava, et al., U.S. Pat. No. 5,460,634.

Applicants respectfully rebut the present rejections.

It is correct that Fava discloses diesel fuel containing a hindered nitroxyl compound, see Example 1 in col. 7. However, Fava does not teach the use of diesel fuel with a cetane number of less than or equal to 50. The diesel fuel employed by Fava has a cetane number of 51.3 (Example 1, col. 7, line 31).

The present diesel fuels have an inherent cetane number of less than or equal to 50, prior to the addition of any cetane improver, specification, page 4, third paragraph.

In view of this, Applicants submit that these rejections are addressed and are overcome.

Claims 1-6, 9-16 and 21 are rejected under 35 USC 102(b) as being anticipated by Wallace, U.S. Pat. No. 5,944,858.

Applicants respectfully rebut these rejections.

Wallace does not disclose hindered nitroxide stabilizers. Further, Wallace does not teach diesel fuel with cetane numbers of less than 50.

In view of this, Applicants submit that these rejections are addressed and are overcome.

Claims 16 and 21 are rejected under 35 USC 103(a) as being unpatentable over Fava in view of Wallace.

Applicants respectfully traverse these rejections.

The limitations of the present claims are not met by this combination of references. Diesel fuel with an inherent cetane number of less than 50 is not disclosed.

Further, the references only generically disclose the use of organic nitrate cetane improvers. The outstanding success of the present invention could not have been expected from the combined

disclosures of the cited references. The success of the present invention is demonstrated in Example 1 on page 13 of the specification. Without an organic nitrate, the fuel exhibits good filterability as shown by high reflectance. With an organic nitrate the reflectance drops from 94 to 69 percent. When a present nitroxide is present alone or together with an antioxidant, the filterability of fuel formulations with the destabilizing organic nitrate is greatly improved.

This success cannot be predicted from the combined disclosures of the cited art.

In view of the present amendments and the above remarks, Applicants submit that each of the 35 USC 112, second paragraph, 35 USC 102(b) and 35 USC 103(a) rejections are addressed and are overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

Respectfully submitted,



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